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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,302	06/27/2003	Richard Mottl	67230-88003	8046

7590

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EXAMINER

HOEY, ALISSA L

ART UNIT PAPER NUMBER

3765

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/609,302	<b>Applicant(s)</b> MOTTL, RICHARD <span style="float: right;">on</span>	
	<b>Examiner</b> Alissa L. Hoey	<b>Art Unit</b> 3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

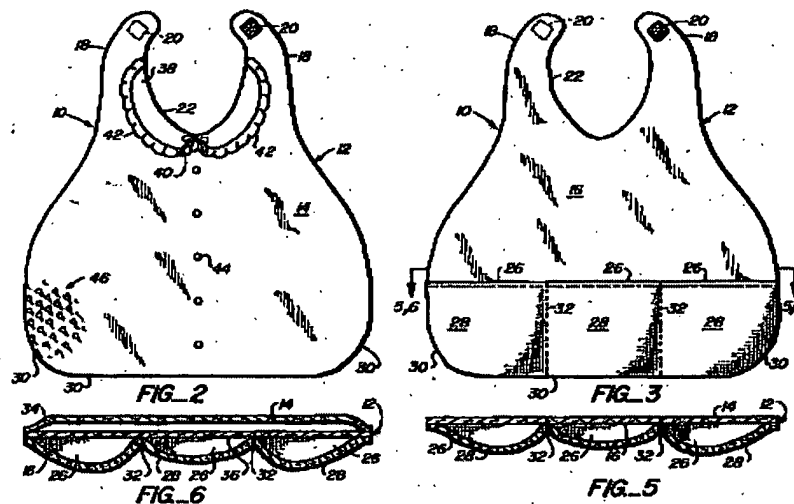
**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Trombetti (US 4,929,528).

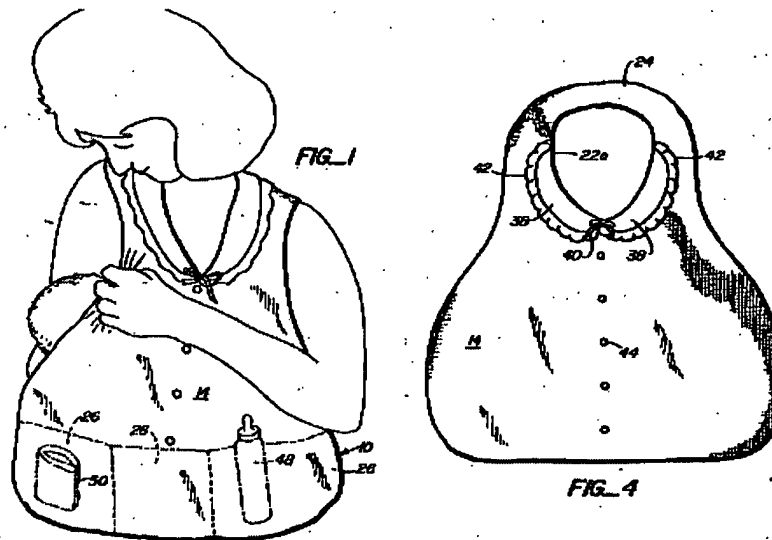


In regard to claims 1-4, Trombetti provides a bib (10) having a front member (12) that covers the wearer's front torso and shoulders (figure 1). The front (12) of the bib (10) is constructed to give the appearance of a conventional article of clothing (column 2, lines 33-38). It is inherent that the bib's appearance of an upper torso conventional article of clothing could be a blouse or a shirt. At least one pocket (28) element located along the bottom edge (30) of the front

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member (12) and decorative indicia (44) attached to the front member allowing a further aesthetically pleasing bib resembling a conventional article of clothing.

Attachment means of hook and loop fasteners (20) to secure the bib (10) around the wearer's neck. A collar element (42) attached to the upper side of the front member (12) which surrounds the neck of the wearer.



In regard to claims 5, 7 and 8, Trombetti provides a bib (10) having a front member (12) which is similar in appearance to a normal shirt or blouse that covers a wearer's torso from the neck to a wearer's waist and further covers the wearer's front torso, shoulders and upper back (column 2, lines 33-38). At least one pocket (26) located along the bottom portion of the front member (12) and a collar member (38) attached to the upper portion of the front member (12). At least one decorative member (44) attached to the front member (12) allowing the aesthetically pleasing bib to further resemble the appearance of a normal article of clothing. The decorative member is a plurality of shirt buttons (44) spaced

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apart and located on the front member extending from the bottom portion to the upper portion (figures 1 and 4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trombetti.

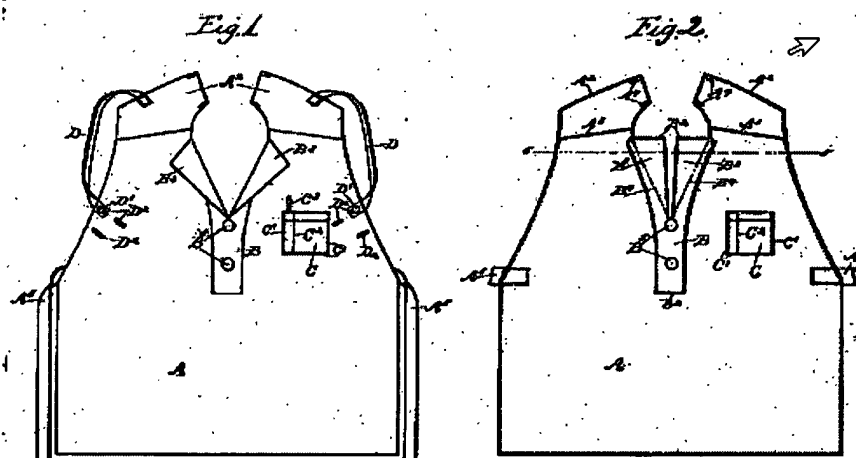
In regards to claims 12 and 13, Trombetti provides a bib (10) designed to cover a wearer's front torso, shoulders and upper back (figures 1). There are decorations on the bib of Trombetti to allow it to resemble a normal article of clothing (column 2, lines 33-38). Further, Trombetti teaches placing the bib (10) around the neck of a wearer. However, Trombetti, fails to teach the method of wearing the bib to protect clothing while consuming meals and decorating the bib to match the wearer's clothing.

It would have been obvious that the bib garment of Trombetti is capable of protecting a wearer's clothing underneath from food spills while consuming meals. The bib provides a layer of material so that if food is spilled on it then it would be stopped from spoiling the user's clothes underneath. Any spills from foods such as spaghetti and red sauce would not stain a user's upper torso garment if the bib of Trombetti is worn. Further, it would have been obvious for

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the wearer of Trombetti to pick the bib based on their outfit for the day. The bib of Trombetti is used to distract from a mother nursing her child by making the bib aesthetically pleasing as a conventional upper torso garment. If the user was wearing a blouse as her conventional clothing then the bib appearing as a blouse when used during nursing would create a camouflage effect making the nursing act less obvious.

5. Claims 5 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filkins (US 445,548) in view of Wilde (US 317,693).

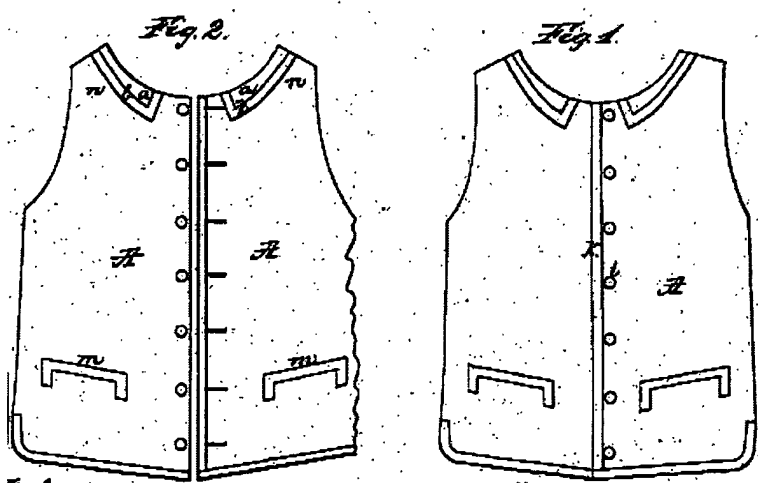


In regard to claims 5-10 Filkins provides a apron (A) comprising a front member (A) which is similar in appearance to a conventional garment that substantially covers a wearer's upper torso from the wearer's neck to the wearer's waist and further covers the wearer's shoulders and upper back (page 1, lines 50-52). It is inherent that the apron's appearance of an upper torso conventional article of clothing could be a blouse or a shirt. A collar member (B3) attached to the upper portion of the front member (A) and at least one decorative member (C) attached to the front member (A) allowing the aesthetically pleasing

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apron (A) to further resemble a conventional article of clothing (page 1, lines 50-52). The decorative members include a breast pocket (C) located on the upper portion of the front (A) and a shirt button (B5) on the front member (A). Further, Filkins teaches a fastening member (A4) to attach the apron around the neck of the wearer and the apron (A) being constructed from a cloth material (page 1, lines 29-31).

However, Filkins fails to teach a plurality of button members placed in spaced intervals and extending from the bottom portion to the upper portion of the front member and at least one pocket element located along the bottom portion of the front member.



Wilde provides a body protector (A) that simulates a conventional article of clothing (page 1, lines 29-32). The body protector (A) covers the front upper torso of the wearer and has a pocket (M) located in the lower portion of the body protector (A). Further, Wilde teaches a plurality of buttons (i) in spaced intervals located from the neck to the bottom of the body protector (A).

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It would have been obvious to have provided the apron of Filkins with the pocket on the bottom portion and plurality of spaced buttons of Wilde, since the apron of Filkins provided with a pocket on the bottom portion of the front member would provide a apron that not only simulates a clothing article but provides an additional space to store items when not in use by the wearer. The garment of Filkins provided with the plurality of spaced buttons, would provide not only an additional way to don and doff the article, but further facilitate the appearance of a conventional garment.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Filkins and Wilde as applied to claims 9 and 10 above, and further in view of Gershman (Velcro Digest).

Filkins and Wilde fail to teach the fastener members being hook and loop fasteners.

Gershman provides the equivalent of hook and loop fastener, hooks and eyes, snaps, eyelets and toggles (see article).

It would have been obvious to have provided the fastening members of Filkins and Wilde being hook and loop fasteners, since hook and loop fasteners hold up well to laundering without becoming eroded and hook and loop fasteners enable quick and easy removal of garments.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Glenroy, Ladd, Orr, Nelson, Uebel, Clifford, Achilli, Voorsanger, Vaxes, Jones, Harris, Walsh, Abel, Nitzberg, Legg et al., Tonkens et



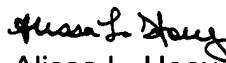
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al., Mink, Jennings, Rosenthal, Liff, Thorpe, Pantzke, Miller, Whitten, Tanner, Sutton, Mitchell, Bern et al., Silas, Rosado, Triche, Ayo, McCracken et al., Cook et al., Manning, Doherty, Smith et al. and Walsh are all cited to show closely related garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alissa L. Hoey  
Patent Examiner